

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 8:130. Ad valorem taxation of machinery actually engaged in the manufacturing of coal,
5 crushed stone, sand, gravel and hot asphalt.

6 RELATES TO: KRS 132.020, 132.200

7 STATUTORY AUTHORITY: KRS 131.130(1)

8 NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the
9 Department of Revenue to promulgate administrative regulations necessary for the administration
10 and enforcement of all tax laws in Kentucky. [~~KRS 132.020(1)(i) establishes the ad valorem tax~~
11 ~~rate based on the value of the machinery actually engaged in manufacturing. KRS 132.200(4)~~
12 ~~provides that machinery actually engaged in manufacturing shall be subject to taxation for state~~
13 ~~purposes only.~~] This administrative regulation explains the property tax classification found in
14 KRS 132.020(1) and 132.200(4) for "machinery actually engaged in manufacturing" as it pertains
15 to coal, crushed stone, sand, gravel and hot mix asphalt. [~~the coal industry.~~]

16 Section 1. Definitions. (1) "Manufacturing machinery" means machinery actually engaged in
17 manufacturing that is subject to the state ad valorem tax of fifteen (15) cents upon each \$100 of
18 value provided in KRS 132.020(1) and exempt under KRS 132.200(4) from ad valorem taxation
19 by any county, city, school or other taxing district in which it has a taxable situs.

20 (2) "Processing area" means the area of a coal preparation plant or coal load out facility where
21 operational steps and methods are used to wash, size, blend, crush, load, or chemically treat coal

1 to get a final marketable product.

2 Section 2. Machinery actually engaged in manufacturing as it pertains to coal. (1) Machinery
3 actually used in mining or a similar operation that is engaged in manufacturing.

4 ~~(a) [Machinery Actually Engaged in Extraction, Severance, Dredging, or Mining of Coal.~~
5 ~~Machinery used in the extraction, severance, dredging, or mining of coal shall not be classified as~~
6 ~~manufacturing machinery for purposes of KRS Chapter 132.~~

7 ~~Section 3. Machinery Actually Used In Mining or a Similar Operation that is Engaged in~~
8 ~~Manufacturing. (1)] Machinery actually used in the crushing, sizing, blending, chemical treating,~~
9 ~~and washing of coal shall be classified as manufacturing machinery.~~

10 ~~(b)[(2)] Coal manufacturing shall begin when machinery and equipment is used to convey the~~
11 ~~raw coal into the crushing, sizing, blending and washing facilities and shall include machinery and~~
12 ~~equipment moving the coal between the manufacturing processes within the processing area~~
13 ~~including in-process staging.~~

14 ~~(c)[(3)] Machinery and equipment used to blend different product grades, prior to the point of~~
15 ~~the coal being loaded on transport for removal from the processing area, shall be classified as~~
16 ~~manufacturing machinery.~~

17 ~~(d)[(4)] Manufacturing shall end with the loading of coal for final transport to the end user.~~

18 ~~[(a)] The loading of coal for final transport to the end user shall only be classified as~~
19 ~~manufacturing if blending or chemical treatment occurs during the loading process.~~

20 ~~(e)[(5)] Machinery actually used in crushing, sizing, blending and washing shall include~~
21 ~~structures housing the crushing, sizing, blending or washing machinery.~~

22 ~~(f)[(6)] Machinery whose purpose shall be classified as to move, stage or load the coal when~~
23 ~~it is utilized subsequent to receiving or dumping of the coal into one (1) of these processes and~~

1 prior to completion of the sizing, crushing, blending or washing process is manufacturing
2 machinery.

3 (2) Equipment used in mining or a similar operation that is not engaged in manufacturing.

4 ~~(a)[Section 4. Equipment Used in Mining or a Similar Operation that Is not Engaged in~~
5 ~~Manufacturing. (1)]~~ The manufacturing process shall exclude coal hauled via a licensed truck
6 outside the processing area.

7 ~~(b)[(2)]~~ Other machinery actually used in extraction, severance, dredging, or mining operations
8 shall not be classified as manufacturing machinery regardless of where in the operation it is
9 located.

10 Section 3. Machinery actually engaged in manufacturing of crushed stone, sand, and gravel.

11 (1) "Machinery actually engaged in manufacturing" includes the following:

12 (a) Machinery actually used in the conveying, crushing, screening, washing, drying, blend-
13 ing, and stockpiling of stone, sand, or gravel to a product of the appropriate gradation and
14 specification required for sale or final use;

15 (b) Machinery and equipment actually used to size, crush, screen, blend, de-dust or wash the
16 stone, sand, or gravel, including all necessary housing, electrical, and support systems;

17 (c) Machinery and equipment actually used to convey or maintain proper material flow of the
18 stone, sand, or gravel to and between the crushing, sizing, screening, blending, dedusting, and
19 washing facilities; or

20 (d) Machinery and equipment actually used to reassemble, remix, and blend the crushed stone,
21 sand, or gravel into different product grades.

22 (2) Manufacturing of crushed stone, sand, or gravel.

23 (a) Manufacturing of crushed stone, sand, and gravel shall commence with the initial sizing of

1 the stone (shot rock), sand, or gravel after it has been removed from its natural deposit, and shall
2 continue with the loading, hauling, pumping, or conveying to the primary crusher or screen.

3 (b) Manufacturing shall continue with the further sizing, classifying, crushing, screening,
4 blending, dedusting, and washing of the stone, sand, or gravel.

5 (c) Manufacturing of stone, sand, or gravel shall end when the product meets and maintains
6 the appropriate gradation, specifications, or blends.

7 (d) The loading of stone, sand, or gravel for final transport to the end user shall only be
8 classified as manufacturing if blending occurs during the loading process.

9 Section 4. Machinery actually engaged in manufacturing of hot mix asphalt. (1) "Machinery
10 actually engaged in manufacturing" shall include the following:

11 (a) Machinery and equipment actually used to load raw materials into an asphalt plant's cold
12 feed bins, including the cold feed bins; the blending of aggregates; the movement of material across
13 screen decks into dryers or drums, including the dryer and drums; and surge facilities, silos, and
14 load control systems;

15 (b) Machinery and equipment actually used to transport or convey the material through or
16 between the cold feed bins, the screen decks, the dryer or drum, the surge facilities, silos, and load
17 control systems;

18 (c) Machinery and equipment actually used to heat, dry, mix, and blend the aggregates with
19 the liquid asphalt, including all necessary housing, electrical, controls, liquid asphalt tanks, and
20 energy supply systems; or

21 (d) Machinery and equipment actually used to load, adhere, remix, place, and compact the hot
22 mix asphalt.

23 (2) Manufacturing of Hot Mix Asphalt.

1 (a) Manufacturing of hot mix asphalt shall commence with the loading of raw materials to the
2 cold feed bins.

3 (b) Manufacturing shall continue with the blending of aggregates on the conveyor belts,
4 through the flow of material across the screen decks, and into the dryer or drum for further blending
5 or mixing.

6 (c) Manufacturing shall continue through the surge facilities, silos, and load control systems.

7 (d) Manufacturing of hot mix asphalt shall end when either:

8 a. The hot mix asphalt is loaded for delivery to a retail customer; or

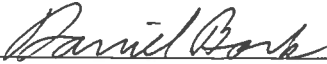
9 b. When the hot mix asphalt is placed and compacted as directed by the customer; and

10 c. It meets the requirements set forth by the applicable customer or regulatory specifications.

11 (e) The loading of hot asphalt for final transport to the end user shall only be classified as
12 manufacturing if blending occurs during the loading process.

103 KAR 8:130

APPROVED:



DANIEL BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

JUNE 6, 2019

DATE APPROVED BY AGENCY

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on July 25, 2019 at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 103 KAR 8:130

Contact Person: Lisa Swiger
Phone Number: (502)564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 8:130 to consolidate 103 KAR 8:130, 103 KAR 8:140 and 103 KAR 8:150 into one regulation. The language contains almost identical language regarding the ad valorem taxation of machinery engaged in the manufacturing of coal, crushed stone, sand, gravel and hot asphalt. Combining the language from these three administrative regulations will provide guidance in one location on the taxation of machinery engaged in manufacturing for ad valorem purposes in Kentucky. (See the NECESSITY, FUNCTION & CONFORMITY statement.)

(b) The necessity of this administrative regulation: To streamline the requirements into one regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations as it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Manufacturers of coal, crushed stone, sand, gravel, and hot asphalt.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no new costs associated with the promulgation of this administrative regulation. Current department funding will be utilized for implementation.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

(8) State whether this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are directly or indirectly increased.

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will require all taxpayers previously impacted by its provisions to adhere to the same guidelines.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 8:130

Contact Person: Lisa Swiger

Phone Number: (502)564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A and 131.130.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies because of amending this administrative regulation to provide more recent and up to date information.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: